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Part II

Environmental Protection Agency

40 CFR Parts 9, 22, 85, et al.

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Parts 512, 523, 534, et al.

Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 22, 85, 86, 600, 1033, 1036, 1037, 1039, 1042, 1043, 1065, 1066, and 1068

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 512, 523, 534, 535, 537, and 538

[EPA–HQ–OAR–2014–0827; NHTSA–2014–0132; FRL–9927–21–OAR]

RIN 2060–AS16; RIN 2127–AL52

Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2

AGENCY: Environmental Protection Agency (EPA) and Department of Transportation (DOT) National Highway Traffic Safety Administration (NHTSA)

ACTION: Proposed rule.

SUMMARY: EPA and NHTSA, on behalf of the Department of Transportation, are each proposing rules to establish a comprehensive Phase 2 Heavy-Duty (HD) National Program that will reduce greenhouse gas (GHG) emissions and fuel consumption for new on-road heavy-duty vehicles. This technology-advancing program would phase in over the long-term, beginning in the 2018 model year and culminating in standards for model year 2027, responding to the President's directive on February 18, 2014, to develop new standards that will take us well into the next decade. NHTSA's proposed fuel consumption standards and EPA's proposed carbon dioxide (CO_2) emission standards are tailored to each of four regulatory categories of heavy-duty vehicles: Combination tractors; trailers used in combination with those tractors; heavy-duty pickup trucks and vans; and vocational vehicles. The proposal also includes separate standards for the engines that power combination tractors and vocational vehicles. Certain proposed requirements for control of GHG emissions are exclusive to EPA programs. These include EPA's proposed hydrofluorocarbon standards to control leakage from air conditioning systems in vocational vehicles, and EPA's proposed nitrous oxide (N_2O) and methane (CH_4) standards for heavy-duty engines. Additionally, NHTSA is addressing misalignment in the Phase 1 standards between EPA and NHTSA to ensure there are no differences in compliance standards between the agencies. In an effort to promote efficiency, the agencies are also proposing to amend their rules to modify reporting requirements, such as the method by which manufacturers submit pre-model, mid-model, and supplemental reports. EPA's proposed HD Phase 2 GHG emission standards are authorized under the Clean Air Act and NHTSA's proposed HD Phase 2 fuel consumption standards authorized under the Energy Independence and Security Act of 2007. These standards would begin with model year 2018 for trailers under EPA standards and 2021 for all of the other heavy-duty vehicle and engine categories. The agencies estimate that the combined standards would reduce CO_2 emissions by approximately 1 billion metric tons and save 1.8 billion barrels of oil over the life of vehicles and engines sold during the Phase 2 program, providing over $200 billion in net societal benefits. As noted, the proposal also includes certain EPA-specific provisions relating to control of emissions of pollutants other than GHGs. EPA is seeking comment on non-GHG emission standards relating to the use of auxiliary power units installed in tractors. In addition, EPA is proposing to clarify the classification of natural gas engines and other gaseous-fueled heavy-duty engines, and is proposing closed crankcase standards for emissions of all pollutants from natural gas heavy-duty engines. EPA is also proposing technical amendments to EPA rules that apply to emissions of non-GHG pollutants from light-duty motor vehicles, marine diesel engines, and other nonroad engines and equipment. Finally, EPA is proposing to require that rebuilt engines installed in new incomplete vehicles meet the emission standards applicable in the year of assembly, including all applicable standards for criteria pollutants.

DATES: Comments on all aspects of this proposal must be received on or before September 11, 2015. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before August 12, 2015.

EPA and NHTSA will announce the public hearing dates and locations for this proposal in a supplemental **Federal Register** document.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2014–0827 (for EPA's docket) and NHTSA–2014–0132 (for NHTSA's docket) by one of the following methods:

- *Online: www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.*
- *Mail:*

EPA: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mail code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

NHTSA: Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

- *Hand Delivery:*

EPA: EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

NHTSA: West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 4 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Instructions: EPA and NHTSA have established dockets for this action under Direct your comments to Docket ID No. EPA–HQ–OAR–2014–0827 and/or NHTSA–2014–0132, respectively. See the **SUPPLEMENTARY INFORMATION** section on ''Public Participation'' for more information about submitting written comments.

Docket: All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the following locations:

EPA: Air and Radiation Docket and Information Center, EPA Docket Center, EPA/DC, EPA WJC West Building, 1301 Constitution Ave. NW., Room 3334, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

NHTSA: Docket Management Facility, M–30, U.S. Department of

1037.621 that would provide a similar allowance for *vehicle* manufacturers to sell or ship *vehicles* that are missing certain emission-related components if those components will be installed by a *secondary* vehicle manufacturer. As conditions of this allowance manufacturers would be required to:

- Have a contractual obligation with the secondary manufacturer to complete the assembly properly and provide instructions about how to do so.
- Keep records to demonstrate compliance.
- Apply a temporary label to the incomplete vehicles.
- Take other reasonable steps to ensure the assembly is completed properly.
- Describe in its application for certification how it will use this allowance.

We request comment on this allowance.

(2) Proposed Amendments to Phase 1 Program

The agencies are proposing revisions to test procedures and compliance provisions used for Phase 1. These changes are described in Section XII. As a drafting matter, EPA notes that we are proposing to migrate the GHG standards for Class 2b and 3 pickups and vans from 40 CFR 1037.104 to 40 CFR 86.1819–14. NHTSA is also proposing to amend 49 CFR part 535 to make technical corrections to its Phase 1 program to better align with EPA's compliance approach, standards and CO_2 performance results. In general, these changes are intended to improve the regulatory experience for regulated parties and also reduce agency administrative burden. More specifically, NHTSA proposes to change the rounding of its standards and performance values to have more significant digits. Increasing the number of significant digits for values used for compliance with NHTSA standards reduces differences in credits generated and overall credit balances for the NHTSA and EPA programs. NHTSA is also proposing to remove the petitioning process for off-road vehicles, clarify requirements for the documentation needed for submitting innovative technology requests in accordance with 40 CFR 1037.610 and 49 CFR 535.7, and add further detail to requirements for submitting credit allocation plans as specified in 49 CFR 535.9. Finally, NHTSA is adding the same record requirements that EPA currently requires to facilitate in-use compliance inspections. These changes are intended to improve the regulatory experience for regulated parties and also reduce agency administrative burden.

(3) Other Proposed Amendments to EPA Regulations

EPA is proposing several amendments to regulations not directly related to the HD Phase 1 or Phase 2 programs, as detailed in Section XIII. For these amendments, there would not be corresponding changes in NHTSA regulations (since there are no such regulations relevant to those programs). Some of these relate directly to heavy-duty highway engines, but not to the GHG programs. Others relate to nonroad engines. This latter category reflects the regulatory structure EPA uses for its mobile source regulations, in which regulatory provisions applying broadly to different types of mobile sources are codified in common regulatory parts such as 40 CFR part 1068. This approach creates a broad regulatory structure that regulates highway and nonroad engines, vehicles, and equipment collectively in a common program. Thus, it is appropriate to include some proposed amendments to nonroad regulations in addition to the changes proposed only for highway engines and vehicles.

(a) Standards for Engines Used In Glider Kits

EPA regulations currently allow used pre-2013 engines to be installed into new glider kits without meeting currently applicable standards. As described in Section XIV, EPA is proposing to amend our regulations to allow only engines that have been certified to meet current standards to be installed in new glider kits, with two exceptions. First, engines certified to earlier MY standards that were identical to the current model year standards may be used. Second, the small manufacturer allowance described in Section I.F.(1)(c) for glider vehicles would also apply for the engines used in the exempted glider kits.

(b) Re-Proposal of Nonconformance Penalty Process Changes

Nonconformance penalties (NCPs) are monetary penalties established by regulation that allow a vehicle or engine manufacturer to sell engines that do not meet the emission standards. Manufacturers unable to comply with the applicable standard pay penalties, which are assessed on a per-engine basis.

On September 5, 2012, EPA adopted final NCPs for heavy heavy-duty diesel engines that could be used by manufacturers of heavy-duty diesel engines unable to meet the current oxides of nitrogen (NO_X) emission standard. On December 11, 2013 the U.S. Court of Appeals for the District of Columbia Circuit issued an opinion vacating that Final Rule. It issued its mandate for this decision on April 16, 2014, ending the availability of the NCPs for the current NO_X standard, as well as vacating certain amendments to the NCP regulations due to concerns about inadequate notice. In particular, the amendments revise the text explaining how EPA determines when NCP should be made available. In this action, EPA is re-proposing most of these amendments to provide fuller notice and additional opportunity for public comment. They are discussed in Section XIV.

(c) Updates to Heavy-Duty Engine Manufacturer In-Use Testing Requirements

EPA and manufacturers have gained substantial experience with in-use testing over the last four or five years. This has led to important insights in ways that the test protocol can be adjusted to be more effective. We are accordingly proposing to make changes to the regulations in 40 CFR part 86, subparts N and T.

(d) Extension of Certain 40 CFR Part 1068 Provisions to Highway Vehicles and Engines

As part of the Phase 1 GHG standards, we applied the exemption and importation provisions from 40 CFR part 1068, subparts C and D, to heavy-duty highway engines and vehicles. We also specified that the defect reporting provisions of 40 CFR 1068.501 were optional. In an earlier rulemaking, we applied the selective enforcement auditing under 40 CFR part 1068, subpart E (75 FR 22896, April 30, 2010). We are proposing in this rule to adopt the rest of 40 CFR part 1068 for heavy-duty highway engines and vehicles, with certain exceptions and special provisions.

As described above, we are proposing to apply all the general compliance provisions of 40 CFR part 1068 to heavy-duty engines and vehicles. We propose to also apply the recall provisions and the hearing procedures from 40 CFR part 1068 for highway motorcycles and for all vehicles subject to standards under 40 CFR part 86, subpart S. We also request comment on applying the rest of the provisions from 40 CFR part 1068 to highway motorcycles and to all vehicles subject to standards under 40 CFR part 86, subpart S.

EPA is proposing to update and consolidate the regulations related to

formal and informal hearings in 40 CFR part 1068, subpart G. This would allow us to rely on a single set of regulations for all the different categories of vehicles, engines, and equipment that are subject to emission standards. We also made an effort to write these regulations for improved readability.

We are also proposing to make a number of changes to part 1068 to correct errors, to add clarification, and to make adjustments based on lessons learned from implementing these regulatory provisions.

(e) Amendments to Engine and Vehicle Test Procedures in 40 CFR Parts 1065 and 1066

EPA is proposing several changes to our engine testing procedures specified in 40 CFR part 1065. None of these changes would significantly impact the stringency of any standards.

(f) Amendments Related to Marine Diesel Engines in 40 CFR Parts 1042 and 1043

EPA's emission standards and certification requirements for marine diesel engines under the Clean Air Act and the act to Prevent Pollution from Ships are identified in 40 CFR parts 1042 and 1043, respectively. EPA is proposing to amend these regulations with respect to continuous NO_X monitoring and auxiliary engines, as well as making several other minor revisions.

(g) Amendments Related to Locomotives in 40 CFR Part 1033

EPA's emission standards and certification requirements for locomotives under the Clean Air Act are identified in 40 CFR part 1033. EPA is proposing to make several minor revisions to these regulations.

(4) Other Proposed Amendments to NHTSA Regulations

NHTSA is proposing to amend 49 CFR parts 512 and 537 to allow manufacturers to submit required compliance data for the Corporate Average Fuel Economy program electronically, rather than submitting some reports to NHTSA via paper and CDs and some reports to EPA through its VERIFY database system. The agencies are coordinating on an information technology project which will allow manufacturers to submit pre-model, mid-model and final model year reports through a single electronic entry point. The agencies anticipate that this would reduce the reporting burden on manufacturers by up to fifty percent. The amendments to 49 CFR part 537 would allow reporting to an electronic database (*i.e.* EPA's VERIFY system), and the amendments to 49 CFR part 512 would ensure that manufacturer's confidential business information would be protected through that process. This proposal is discussed further in Section XIII.

II. Vehicle Simulation, Engine Standards and Test Procedures

A. Introduction and Summary of Phase 1 and Phase 2 Regulatory Structures

This Section II. A. gives an overview of our vehicle simulation approach in Phase 1 and our proposed approach for Phase 2; our separate engine standards for tractor and vocational chassis in Phase 1 and our proposed separate engine standards in Phase 2; and it describes our engine and vehicle test procedures that are common among the tractor and vocational chassis standards. Section II. B. discusses in more detail how the Phase 2 proposed regulatory structure would approach vehicle simulation, separate engine standards, and test procedures. Section II. C. discusses the proposed vehicle simulation computer program, GEM, in further detail and Section II. D. discusses the proposed separate engine standards and engine test procedure. See Sections III through VI for discussions of the proposed test procedures that are unique for tractors, trailers, vocational chassis, and HD pickup trucks and vans.

In Phase 1 the agencies adopted a regulatory structure that included a vehicle simulation procedure for certifying tractors and the chassis of vocational vehicles. In contrast, the agencies adopted a full vehicle chassis dynamometer test procedure for certifying complete heavy-duty pickups and vans. The Phase 1 vehicle simulation procedure for tractors and vocational chassis requires regulated entities to use GEM to simulate and certify tractors and vocational vehicle chassis. This program is provided free of charge for unlimited use and may be downloaded by anyone from EPA's Web site: *http://www.epa.gov/otaq/climate/gem.htm*. This computer program mathematically combines vehicle component test results with other pre-determined vehicle attributes to determine a vehicle's levels of fuel consumption and CO_2 emissions for certification purposes. For Phase 1, the required inputs to this computer program include, for tractors, vehicle aerodynamics information, tire rolling resistance, and whether or not a vehicle is equipped with certain lightweight high-strength steel or aluminum components, a tamper-proof speed limiter, or tamper-proof idle reduction technologies. The sole input for vocational vehicles, was tire rolling resistance. For Phase 1 the computer program's inputs did not include engine test results or attributes related to a vehicle's powertrain, namely, its transmission, drive axle(s), or tire revolutions per mile. Instead, for Phase 1 the agencies specified a generic engine and powertrain within the computer program, and for Phase 1 these cannot be changed by a program user.[80]

The full vehicle chassis dynamometer test procedure for heavy-duty pickups and vans substantially mirrors EPA's existing light-duty vehicle test procedure. EPA also set separate engine so-called cap standards for methane (CH_4) and nitrous oxide (N_2O) (essentially capping current emission levels). Compliance with the CH_4 and N_2O standards is measured by an engine dynamometer test procedure, which EPA based on our existing heavy-duty engine emissions test procedure with small adaptations. EPA also set hydro-fluorocarbon refrigerant leakage design standards for cabin air conditioning systems in tractors, pickups, and vans, which are evaluated by design rather than a test procedure.

In this action the agencies are proposing a similar regulatory structure for Phase 2, along with a number of revisions that are intended to more accurately evaluate vehicle and engine technologies' impact on real-world fuel efficiency and GHG emissions. Thus, we are proposing to continue the same certification test regime for heavy duty pickups and vans, and for the CH_4 and N_2O) standards, as well as tractor and pickup and van air conditioning leakage standards. EPA is also proposing to control vocational vehicle air conditioning leakage and to use that same certification procedure.

We are proposing to continue the vehicle simulation procedure for certifying tractors and vocational chassis, and we are proposing a new regulatory program to regulate some of the trailers hauled by tractors. The agencies are proposing the use of an equation based on the vehicle simulation procedure for trailer certification. In addition, we are proposing a simplified option for trailer certification that would not require testing to be undertaken by manufacturers to generate inputs for the equation. We are also proposing to continue separate fuel consumption and CO_2 standards for the engines installed

[80] These attributes are recognized in Phase 1 innovative technology provisions at 40 CFR 1037.610.

the exclusion with the specific aftertreatment device that does not meet the temperature criterion. For example, there should be no NO_X exclusion if a diesel oxidation catalyst is below the temperature threshold. EPA is also proposing to revise the exclusion to include accommodation of CO emissions when there is a problem with low temperatures in the exhaust.

- Clarify that exhaust temperatures should be measured continuously to evaluate whether those temperatures stay above the 250 °C threshold.
- Add specifications to describe where to measure temperatures for exhaust systems with multiple aftertreatment devices.
- Include a provision to add 0.00042 g/hp-hr to the PM measurement to account for PM emissions vented to the atmosphere through the crankcase vent.
- Increase the time allowed for submitting quarterly reports from 30 to 45 days after the end of the quarter.

(6) Miscellaneous Amendments to 40 CFR Part 86

As described elsewhere, EPA is proposing to make several changes to 40 CFR part 86. This includes primarily the GHG standards for Class 2b and 3 heavy-duty vehicles in subpart S. EPA is also proposing changes related to hearing procedures, adjustment factors for infrequent regeneration of aftertreatment devices, and the testing program for heavy-duty in-use vehicles.

EPA is proposing to make several minor amendments to 40 CFR part 86, subpart A, including the following:

- Revise 40 CFR 86.1823 to extend the default catalyst thermal reactivity coefficient for Tier 2 vehicles to also apply for Tier 3 vehicles. This change was inadvertently omitted from the recent Tier 3 rulemaking. EPA is also interested in a broader review of the appropriate default value for the catalyst thermal reactivity coefficient. EPA would be interested in reviewing any available data related to this issue. In any case, EPA would plan to revisit this question in the future.
- Establish a minimum maintenance interval of 1500 hours for DEF filters for heavy-duty engines. This reflects the technical capabilities for filter durability and the expected maintenance in the field.
- Remove the idle CO standard from 40 CFR 86.007–11 and 40 CFR 86.008–10. This standard no longer applies, since all engines are now subject to diagnostic requirements instead of the idle CO standard.

EPA is also proposing several amendments to remove obsolete text, update cross references, and streamline redundant regulatory text. For example, paragraph (f)(3) of Appendix I includes a duty cycle for heavy-duty spark-ignition engines that is no longer specified as part of the certification process.

(7) Applying 40 CFR Part 1068 to Heavy-Duty Highway Engines and Vehicles

As part of the Phase 1 standards, EPA applied the exemption and importation provisions from 40 CFR part 1068, subparts C and D, to heavy-duty highway engines and vehicles. EPA also specified that the defect reporting provisions of 40 CFR 1068.501 were optional. In an earlier rulemaking, EPA applied the selective enforcement auditing under 40 CFR part 1068, subpart E (75 FR 22896, April 30, 2010). EPA is proposing in this rule to adopt the rest of 40 CFR part 1068 for heavy-duty highway engines and vehicles, with certain exceptions and special provisions.

40 CFR part 1068 captures a range of compliance provisions that are common across our engine and vehicle programs. These regulatory provisions generally provide the legal framework for implementing a certification-based program. 40 CFR part 1068 works in tandem with the standard-setting part for each type of engine/equipment. This allows EPA to adopt program-specific provisions for emission standards and certification requirements for each type of engine/equipment while taking a uniform approach to the compliance provisions that apply generally.

Many of the provisions in 40 CFR part 1068 were originally written to align with the procedures established in 40 CFR part 85 and part 86. EPA expects the following provisions from 40 CFR part 1068 to not involve a substantive change for heavy-duty highway engines and vehicles:

- Part 1068, subpart A, describes how EPA handles confidential information, how the Administrator may delegate decision-making within the agency, how EPA may enter manufacturers' facilities for inspections, what information manufacturers must submit to EPA, and how EPA may require testing or perform testing. There is also a description of labeling requirements that apply uniformly for different types of engines/equipment.
- The prohibited acts, penalties, injunction provisions, and related requirements of 40 CFR 1068.101 and 1068.125 correspond to what is specified in Clean Air Act sections 203 through 207 (also see section 213(d)).
- 40 CFR 1068.103 describes how a certificate of conformity applies on a model-year basis. With the exception of the stockpiling provisions in paragraph (f), as described below, these provisions generally mirror what already applies for heavy-duty highway engines.
- 40 CFR 1068.115 describes manufacturers' warranty obligations. EPA is proposing to amend this section to more carefully conform to the warranty provisions in Clean Air Act section 207, as described below. Note that EPA also includes a provision identifying the warranty requirements from Clean Air Act section 203(a)(4), which are specific to motor vehicles.
- 40 CFR 1068.120 describes requirements that apply for rebuilding engines. This includes more detailed provisions describing how the rebuild requirements apply for cases involving a used engine to replace a certified engine.
- 40 CFR part 1068, subpart F, describes procedural requirements for voluntary and mandatory recalls. As noted below, EPA is proposing to modify these regulations to eliminate a few instances where the part 1068 provisions differ from what is specified in 40 CFR part 86, subpart S.
- 40 CFR part 1068, subpart G, describes how EPA would hold a hearing to consider a manufacturer's appeal of an adverse compliance decision from EPA. These procedures apply for penalties associated with violations of the prohibited acts, recall, nonconformance penalties, and generally for decisions related to certification. As noted below, EPA is proposing to migrate these procedures from 40 CFR part 86, including an effort to align with EPA-wide regulations that apply in the case of a formal hearing.

Manufacturers are already required to use good engineering judgment in many cases related to certifying engines under 40 CFR part 86 (see 40 CFR 1068.5).

As noted above, the exemption provisions of 40 CFR part 1068, subpart C, already apply for heavy-duty highway engines. EPA is proposing to add a clarification that the exemption from the tampering prohibition for competition purposes does not apply to heavy-duty highway vehicles. This aligns with the statutory provisions for the racing exemption.

EPA is proposing to require that manufacturers comply with the defect-reporting provisions in 40 CFR 1068.501. Defect reporting under 40 CFR 1068.501 involves a more detailed approach for manufacturers to track possible defects and establishes thresholds to define when manufacturers must perform an investigation to determine an actual rate of emission-related defects. These

thresholds are scaled according to production volumes, which allows us to adopt a uniform protocol for everything from locomotives to lawn and garden equipment. Manufacturers that also produce nonroad engines have already been following this protocol for several years. These defect-reporting requirements are also similar to the rules that apply in California.

40 CFR part 1068 includes a definition of ''engine'' to clarify that an engine becomes subject to certification requirements when a crankshaft is installed in an engine block. At that point, a manufacturer may not ship the engine unless it is covered by a certificate of conformity or an exemption. Most manufacturers have opted into this definition of ''engine'' as part of the replacement engine exemption as specified in 40 CFR 85.1714. We are proposing to make this mandatory for all manufacturers. A related provision is the definition of ''date of manufacture'', which we use to establish that an engine's model year is also based on the date of crankshaft installation. To address the concern that engine manufacturers would install a large number of crankshafts before new emission standards start to apply as a means of circumventing those standards, we state in 40 CFR 1068.103(f) that manufacturers must follow their normal production plans and schedules for building engines in anticipation of new emission standards. In addition to that broad principle, we state that we will consider engines to be subject to the standards for the new model year if engine assembly is not complete within 30 days after the end of the model year with the less stringent standards (a longer time frame applies for engines with per-cylinder displacement above 2.5 liters).

40 CFR part 1068 also includes provisions related to vehicle manufacturers that install certified engines. EPA states in 40 CFR 1068.105(b) that vehicle manufacturers are in violation of the tampering prohibition if they do not follow the engine manufacturers' emission-related installation instructions, we approve as part of the certification process.

40 CFR part 1068 also establishes that vehicles have a model year and that installing certified engines includes a requirement that the engine be certified to emission standards corresponding to the vehicle's model year. An exception to allow for normal production and build schedules is described in 40 CFR 1068.105(a). This ''normal-inventory'' allowance is intended to allow for installation of previous-tier engines that are produced under a valid certificate by the engine manufacturer shortly before the new emission standards start to apply. Stockpiling such engines would be considered an unlawful circumvention of the new emission standards. The range of companies and production practices is much narrower for heavy-duty highway engines and vehicles than for nonroad engines and equipment. EPA is therefore proposing a further set of specifications to define or constrain engine-installation schedules that would be considered to fall within normal-inventory practices. In particular, vehicle manufacturers are limited to three months of production, once new emission standards start to apply, to install previous-tier engines without EPA approval. For any subsequent installation of previous-tier engines, EPA is proposing to require that vehicle manufacturers get EPA approval based on a demonstration that the excess inventory was a result of unforeseeable circumstances rather than circumvention of emission standards. EPA is proposing that approval in those circumstances would be limited to a maximum of 50 engines to be installed for up to three additional months for a single vehicle manufacturer.

The existing prohibitions and exemptions in 40 CFR part 1068 related to competition engines and vehicles need to be amended to account for differing policies for nonroad and motor vehicle applications. In particular, we generally consider nonroad engines and vehicles to be ''used solely for competition'' based on usage characteristics. This allows EPA to set up an administrative process to approve competition exemptions, and to create an exemption from the tampering prohibition for products that are modified for competition purposes. There is no comparable allowance for motor vehicles. A motor vehicle qualifies for a competition exclusion based on the physical characteristics of the vehicle, not on its use. Also, if a motor vehicle is covered by a certificate of conformity at any point, there is no exemption from the tampering and defeat-device prohibitions that would allow for converting the engine or vehicle for competition use. There is no prohibition against actual use of certified motor vehicles or motor vehicle engines for competition purposes; however, it is not permissible to remove a motor vehicle or motor vehicle engine from its certified configuration regardless of the purpose for doing so.

It is relatively straightforward to apply the provisions of 40 CFR part 1068 to all engines subject to the criteria emission standards in 40 CFR part 86, subpart A, and the associated vehicles. Manufacturers of comparable nonroad engines are already subject to all these provisions. Class 2b and 3 heavy-duty vehicles subject to criteria emission standards under 40 CFR part 86, subpart S, are covered by a somewhat different compliance program. EPA is therefore proposing to apply the provisions of 40 CFR part 1068 only as described in the next section for light-duty vehicles, light-duty trucks, medium-duty passenger vehicles, and chassis-certified Class 2b and 3 heavy-duty vehicles.

B. Amendments Affecting Gliders and Glider Kits

As noted in Sections III, and V the agencies are proposing not to exempt glider kits from the Phase 2 GHG emission and fuel consumption standards.[877] Gliders and glider kits are exempt from NHTSA's Phase 1 fuel consumption standards. The EPA Phase 1 rules exempted gliders and glider kits produced by small businesses from CO_2 standards (see 40 CFR 1037.150(c)) but did not include such a blanket exemption for other gliders and glider kits. EPA is proposing to amend its rules applicable to engines installed in glider kits, a proposal which would affect emission standards not only for GHGs but for criteria pollutants as well. NHTSA is also considering including gliders under its Phase 2 standards. Finally, EPA believes glider manufacturers may not understand how existing EPA regulations apply to them or otherwise are not complying with existing requirements, resulting in a number of uncertified vehicles. Therefore, EPA is also proposing to clarify its requirements for certification and to revise its definitions for glider manufacturers as described below.

It is important to emphasize that EPA is not proposing to ban gliders. Rather, as is described below, EPA proposing to restrict the number of gliders that may be produced using engines not meeting current standards.

EPA requests comment on its proposed amendments and clarifications regarding gliders. Commenters are encouraged to include technological information and production data for the current glider market, as well as for past practices. Commenters opposing the proposed provisions are also encouraged to suggest alternate approaches that would prevent glider kits from being used to

[877] Glider vehicles are motor vehicles produced to accept rebuilt engines (or other used engines) along with used axles and/or transmissions. The common commercial term ''glider kit'' is used here primarily to refer to a chassis into which the used/rebuilt engine is installed.

place in part 85, and in part 1068 for engines/equipment imported for export).

• § 1068.235: Clarify that the standard-setting part may set conditions on an exemption for competition engines/equipment.

• § 1068.240: Describe the logistics for identifying the disposition of engines being replaced under the replacement engine exemption. In particular, manufacturers would need to identify the disposition of each engine by the due date for the report under § 1068.240(c) to avoid counting them toward the production limit for untracked replacement engines. We are proposing to delay the due date for the report until September 30 following the production year to allow more time for manufacturers to make these determinations.

• § 1068.240: Clarify the relationship between paragraphs (d) and (e).

• § 1068.250: Simplify the deadline for requesting small-volume hardship.

• § 1068.255: Clarify that hardship provisions for equipment manufacturers are not limited to small businesses, and that a hardship approval is generally limited to a single instance of producing exempt equipment for up to 12 months.

• § 1068.260: State that manufacturers shipping engines without certain emission-related components need to identify the unshipped components either with a performance specification (where applicable) or with specific part numbers. We are also listing exhaust piping before and after aftertreatment devices as not being emission-related components for purposes of shipping engines in a certified configuration.

• §§ 1068.260 and 1068.262: Revise the text to clarify that provisions related to partially complete engines have limited applicability in the case of equipment subject to equipment-based exhaust emission standards (such as recreational vehicles). These provisions are not intended to prevent the sale of partially complete equipment with respect to evaporative emission standards. We intend to address this in the future by changing the regulation in 40 CFR part 1060 to address this more carefully.

• § 1068.262: Revise text to align with the terminology and description adopted for similar circumstances related to shipment of incomplete heavy-duty vehicles under 40 CFR part 1037.

• § 1068.301: Revise text to more broadly describe importers' responsibility to submit information and store records and explicitly allow electronic submission of EPA declaration forms and other importation documents.

• § 1068.305: Remove the provision specifying that individuals may need to submit taxpayer identification numbers as part of a request for an exemption or exclusion for imported engines/equipment. We do not believe this information is necessary for implementing the exemption and exclusion provisions.

• § 1068.315: Allow for destroying engines/equipment instead of exporting them under the exemption for importing engines/equipment for repairs or alterations.

• § 1068.315: Remove the time constraints on approving extensions to a display exemption for imported engines/equipment. EPA would continue to expect the default time frame of one year to be appropriate, and extension of one to three years is sufficient for most cases; however, we are aware that there are occasional circumstances calling for a longer-term exemption. For example, an engine on display in a museum might appropriately be exempted indefinitely once its place in a standing exhibition is well established.

• § 1068.315: Specify that engines under the ancient engine exemption must be *substantially* in the original configuration.

• § 1068.360: Clarify the provisions related to model year for imported products by removing a circularity regarding ''new'' engines and ''new'' equipment.

• § 1068.401: Add explicit statement that SEA testing is at manufacturer's expense. This is consistent with current practice and the rest of the regulatory text.

• § 1068.401: Allow for requiring manufacturers other than the certificate holder to perform selective enforcement audits in cases where multiple manufacturers are cooperatively producing certified engines.

• § 1068.401: State that SEA non-cooperation may lead to suspended or revoked certificate (like production-line testing).

• § 1068.415: Set up new criteria for lower SEA testing rate based on engine power to allow for a reduced testing rate of one engine per day only for engines with maximum engine power above 560 kW, but keep the allowance to approve a lower testing rate; that may be needed, for example, if engine break-in (stabilization) and testing are performed on the same dynamometer. EPA believes it is more appropriate to base reduced testing rates on engine characteristics rather than sales volumes, as has been done in the past.

• § 1068.415: Revise the service accumulation requirement to specify a maximum of eight days for stabilizing a test engine. This is necessary to address a situation where an engine operates only six hours per day to achieve stabilization after well over 50 hours. For such cases, we would expect manufacturers to be able to run engines much more than six hours per day. As with testing rates, manufacturers may ask for our approval to use a longer stabilization period if circumstances don't allow them to meet the specified service accumulation targets.

• § 1068.501, and Appendix I: Clarify that ''emission-related components'' include components whose failure *would commonly* increase emissions (not might increase), and whose *primary* purpose is to reduce emissions (not sole purpose); current regulations are not consistent.

• § 1068.501: Add ''in-use testing'' to list of things to consider for investigating potential defects.

• § 1068.505: Clarify that manufacturers subject to a mandatory recall must remedy noncompliant target vehicles without regard to their age or mileage at the time of repair, consistent with provisions that already apply under 40 CFR part 85.

• § 1068.505: Revise the requirement for submitting a remedial report from a 60-day maximum to a 45-day minimum (or 30-day minimum in the event of a hearing). This adjusted approach already applies to motor vehicles under 40 CFR part 85.

• § 1068.515: Clarify an ambiguity to require that manufacturers identify the facility where repairs or inspections are performed.

• § 1068.530: Specify that recall records must be kept for five years, rather than three years. This is consistent with longstanding recall policy for motor vehicles and motor vehicle engines under 40 CFR part 85.

Manufacturers and equipment operators have raised an additional question about how the regulations apply for replacement engines where the replacement engine is of a different type than the engine being replaced. For example, someone operating a piece of industrial equipment may want to replace an old spark-ignition engine with a compression-ignition engine (or vice versa). The replacement engine could be freshly manufactured, or it may have already been placed into service. The tampering prohibition would generally disallow ''disabling emission controls,'' but regulations do not directly address how this applies relative to the multiple emission standards that apply. It is important to

• § 1033.201: Clarify that manufacturers may amend their application for certification after the end of the model year in certain circumstances, but they may not produce locomotives for a given model year after December 31 of the named year.

• § 1033.201: Establish that manufacturers may deliver to EPA for testing a locomotive/engine that is identical to the test locomotive/engine used for certification. This may be necessary if the test locomotive/engine has accumulated too many hours, or if it is unavailable for any reason.

• § 1033.225: Clarify that manufacturers may amend the application for certification after the end of the model year only in certain circumstances, and not to add a new or modified locomotive configuration.

• § 1033.235: Add an explicit allowance for carryover engine families to include the same kind of within-family running changes that are currently allowed over the course of a model year. The original text may have been understood to require that such running changes be made separate from certifying the engine family for the new model year.

• §§ 1033.235, 1033.245, and 1033.601: Describe how to demonstrate compliance with dual-fuel and flexible-fuel locomotives. This generally involves testing with each separate fuel, or with a worst-case fuel blend.

• § 1033.245: Add instructions for calculating deterioration factors for sawtooth deterioration patterns, such as might be expected for periodic maintenance, such as cleaning or replacing diesel particulate filters.

• § 1033.250: Remove references to routine and standard tests, and remove the shorter recordkeeping requirement for routine data (or data from routine tests). All test records must be kept for eight years. With electronic recording of test data, there should be no advantage to keeping the shorter recordkeeping requirement for a subset of test data. EPA also notes that the eight-year period restarts with certification for a new model year if the manufacturer uses carryover data.

• § 1033.255: Clarify that rendering information false or incomplete after submitting it is the same as submitting false or incomplete information. For example, if there is a change to any corporate information or engine parameters described in the manufacturer's application for certification, the manufacturer must amend the application to include the new information.

• § 1033.255: Clarify that voiding certificates for a recordkeeping or reporting violation would be limited to certificates that relate to the particular recordkeeping or reporting failure.

• § 1033.501: Clarify how testing requirements apply differently for locomotive engines and for complete locomotives.

• § 1033.501: Add paragraph (a)(4) to remove proportionality verification for discrete-mode tests if a single batch fuel measurement is used to determine raw exhaust flow rate. This verification involves statistical assessment that is not valid for the single data point. Requiring manufacturers instead to simply ensure constant sample flow should adequately address the concern,

• §§ 1033.515 and 1033.520: Update terminology by referring to ''test intervals'' instead of ''phases''. This allows us to be consistent with terminology used in 40 CFR part 1065.

• § 1033.520: Correct the example given to describe the testing transition after the second test interval.

• §§ 1033.701 and 1033.730: Describe the process for retiring emission credits. This may be referred to as donating credits to the environment.

• § 1033.710: Clarify that it is not permissible to show a proper balance of credits for a given model by using emission credits from a future model year.

• § 1033.730: Clarify terminology for ABT reports.

• § 1033.815: Add consideration of periodic locomotive inspections in 184-day intervals.

• § 1033.901: Update the contact information for the Designated Compliance Officer.

• § 1033.915: Migrate provisions related to confidential information to 40 CFR part 1068.

J. Miscellaneous EPA Amendments

EPA is proposing to clarify that the cold NMHC standards specified in 40 CFR 86.1811–17 do not apply at high altitude. We intended in recent amendments to state that the cold CO standards apply at both low and high altitude, but inadvertently placed that statement where it also covered cold NMHC standards, which contradicts existing regulatory provisions that clearly describe the cold NMHC standards as applying only for low-altitude testing. The proposed change would simply move the new clarifying language to apply only to cold CO standards. We are also proposing to restore the cold NMHC standards in paragraph (g)(2), which were inadvertently removed as part of the earlier amendments.

EPA is proposing to revise the specifications for Class 2b and Class 3 vehicles certifying early to the Tier 3 exhaust emission standards under 40 CFR 86.1816–18 to clarify that carryover values for PM and formaldehyde apply. The preamble to the earlier final rule described these standards properly, but the regulations inadvertently pointed to the Tier 3 values for PM and formaldehyde for these vehicles.

EPA is proposing to make a minor correction to the In-Use Compliance Program under 40 CFR 86.1846–01. A recent amendment describing how to use SFTP test results in the compliance determination inadvertently removed a reference to low-mileage SFTP testing. We are proposing to restore the removed text.

EPA is proposing to revise the instruction for creating road-load coefficients for cold temperature testing in 40 CFR 1066.710 to simply refer back to 40 CFR 1066.305 where this is described more generally. The text originally adopted in 40 CFR 1066.710 incorrectly describes the calculation for determining those coefficients.

EPA is also proposing two minor amendments related to highway motorcycles. First, we are proposing to correct an error related to the small-volume provisions for highway motorcycles. The regulation includes an inadvertent reference to a small-volume threshold based on an annual volume of 3,000 motorcycles produced in the United States. As written, this would not consider any foreign motorcycle production for importation into the United States. This error is corrected by simply revising the text to refer to an annual production volume of motorcycles produced ''for'' the United States. This would properly reflect small-volume production as it relates to compliance with EPA standards. Second, we are proposing to clarify the language describing how to manage the precision of emission results, both for measured values and for calculating values when applying a deterioration factor. This involves a new reference to the rounding procedures in 40 CFR part 1065 to replace the references to outdated ASTM procedures. EPA is proposing in 40 CFR 1037.601(a)(3) to clarify that the Clean Air Act does not allow any person to disable, remove, or render inoperative (*i.e.,* tamper with) emission controls on a certified motor vehicle for purposes of competition. An existing provision in 40 CFR 1068.235 provides an exemption for nonroad engines converted for competition use. This provision reflects the explicit exclusion of engines used solely for competition from the CAA definition of

''nonroad engine''. The proposed amendment clarifies that this part 1068 exemption does not apply for motor vehicles.

K. Amending 49 CFR Parts 512 and 537 To Allow Electronic Submissions and Defining Data Formats for Light-Duty Vehicle Corporate Average Fuel Economy (CAFE) Reports

To improve efficiency and reduce the burden to manufacturers and the agencies, NHTSA is proposing to modify 49 CFR part 537 eliminating the option for manufacturers to submit pre-model, mid-model and supplemental reports on CD–ROMS and require only one electronic submission (for each report) electronically via a method proscribed by NHTSA. NHTSA is introducing a new electronic format to standardize the method for collecting manufacturer's information. NHTSA also proposes to modify 49 CFR part 512 to include and protect submitted CAFE data elements that need to be treated as confidential business information.

49 CFR part 537 currently requires manufacturers to provide reports to NHTSA containing projected estimates of how manufacturers plan to comply with NHTSA standards. In the CAFE final rule for vehicles manufactured for model years 2017–2025, NHTSA modified its reporting requirements at 49 CFR 537.5(c)(4) to eliminate the option for manufacturers to mail hardcopy submissions of CAFE reports to NHTSA and required all reports to be submitted electronically by CD–ROM (CBI and non-CBI versions) or by email (non-CBI version).[881] Currently, any data provided in the manufacturer's report is required in MS-Excel spreadsheet format. Supporting documentation such as cover letters or requests for confidentiality is required to be provided in a pdf format.

NHTSA is proposing to change the required format for CAFE data required under 49 CFR 537.7(b) and (c) in order to standardize submissions and better align with data provided to EPA. For model year 2013 through 2015 most manufacturer reports received by NHTSA lacked the required format adopted in the 2017–2025 final rule. NHTSA is therefore adopting a standardized template for manufacturers to report model type level data. The template organizes the required data in a consistent manner, adopts formats for values consistent with those provided to EPA for similar values and calculates manufacturer's target standard. Calculating target standards is preferred because it reduces errors in manufacturer's determinations. However, NHTSA's long-term goal is to standardize the required data for incorporation into an electronic database system and this first step facilities a structure for coding the electronic data which will ultimately reduce manufacturer's and the government's burden for reporting.

NHTSA rationalizes that establishing a required format is necessary because manufacturers may not understand how to provide the required CAFE data. In the 2017 to 2025 final rule, NHTSA modified its base tire definition to better align with the approach manufacturers use to determine model type target standards. CAFE standards are attribute based, and thus each manufacturer has its own ''standard,'' or compliance obligation, defined by the vehicles it produces for sale in each fleet in a given model year. A manufacturer calculates its fleet standard from the attribute based target curve standards derived from the unique footprint values, which are the products of the average front and rear vehicle track width and wheelbase dimensions, of the vehicles in each model type. Vehicle track width dimensions are determined with a vehicle equipped with ''base tires,'' which NHTSA currently defines in 49 CFR part 523 as (for passenger automobiles, light trucks, and medium duty passenger vehicles) the tire size specified as standard equipment by the manufacturer on each unique combination of a vehicle's footprint and model type. Standard equipment is defined in 40 CFR 86.1803–01. NHTSA made these changes to provide a clear definition for footprint calculations and, thus, fleet compliance projections, calculations, finalizations and enforcement efforts. Beginning in model year 2013, as modified in 49 CFR 537.7(b), manufacturers were to provide attribute characteristics and standards in consideration of the change in the base tire definition for each unique model type and footprint combination of the manufacturer's automobiles. Manufacturers were required to provide the data listed by model types in order of increasing average inertia weight from top to bottom down the left side of the table and list the information categories in the order specified in 49 CFR 537.7(b)(3)(i) and (ii) from left to right across the top of the table. Manufacturers could also provide the data using any format required by EPA, which contains all of the required information in a readily identifiable format.

In the 2017–2025 final rule, additional changes to NHTSA's reporting requirements also included a modification to 49 CFR 537.7(b) to restructure and clarify how manufacturers report information used to make the determination that an automobile can be classified as a light truck for CAFE purposes. The agency felt that this proposed change was necessary because the previous requirements in 49 CFR part 537 specified that manufacturers must provide information on some, but not all, of the functions and features used to classify an automobile as a light truck, and it is important for compliance reasons to understand and be able to readily verify the methods used to ensure manufacturers are classifying vehicles correctly. Furthermore, the previous regulation required that the information be distributed in different locations throughout a manufacturer's report, making it difficult for the agency to clearly determine exactly what functions or features a manufacturer is using to classify a vehicle as a light truck. Therefore, NHTSA streamlined the location of all its provisions for defining vehicle classifications into one consolidate section. With these changes, manufacturers can provide the agency with all the necessary data in a simpler format that allows the agency, and perhaps also the manufacturer, to understand quickly and easily how light truck vehicle classification determination decisions are made.

In reviewing manufacturers current reporting, most manufacturers are still failing to provide the required information for classifying light trucks. For the model year 2015 pre-model year reports, only a few manufacturers provided the required information and many provided the information incorrectly. Therefore, NHTSA is also proposing to incorporate an additional template for collecting vehicle configuration level data which includes vehicle classification information. Similarly, the template will standardize the format of the data with values required by EPA and structures the data for future incorporation into a database system. Finally, the template also simplifies reporting by not having manufacturers report all vehicle classification characteristics but only those used by the manufacturer in qualifying a vehicle as a light truck. NHTSA is adopting this provision to better align with EPA current database structure which uses a similar approach in accepting light truck level data.

[881] 77 FR 62624, October 15, 2012.

§ 85.1508 ''In Use'' inspections and recall requirements.

* * * * *

(c) A certificate holder will be notified whenever the Administrator has determined that a substantial number of a class or category of the certificate holder's vehicles or engines, although properly maintained and used, do not conform to the regulations prescribed under section 202 when in actual use throughout their useful lives (as determined under section 202(d)). After such notification, the Recall Regulations at 40 CFR part 1068, subpart G, shall govern the certificate holder's responsibilities and references to a manufacturer in the Recall Regulations shall apply to the certificate holder.

■ 10. Section 85.1513 is amended by revising paragraph (e)(4) to read as follows:

§ 85.1513 Prohibited acts; penalties.

* * * * *

(e) * * *

(4) Hearings on suspensions and revocations of certificates of conformity or of eligibility to perform modification/testing under § 85.1509 shall be held in accordance with 40 CFR part 1068, subpart G.

* * * * *

Subpart R—Exclusion and Exemption of Motor Vehicles and Motor Vehicle Engines

■ 11. Section 85.1701 is amended by revising paragraph (a)(1) to read as follows:

§ 85.1701 General applicability.

(a) * * *

(1) Beginning January 1, 2014, the exemption provisions of 40 CFR part 1068, subpart C, apply instead of the provisions of this subpart for heavy-duty motor vehicle engines regulated under 40 CFR part 86, subpart A, except that the competition exemption of 40 CFR 1068.235 and the hardship exemption provisions of 40 CFR 1068.245, 1068.250, and 1068.255 do not apply for motor vehicle engines.

* * * * *

■ 12. Section 85.1703 is amended by adding paragraph (b) to read as follows:

§ 85.1703 Definition of motor vehicle.

* * * * *

(b) Note that, in applying the criterion in paragraph (a)(2) of this section, vehicles that are clearly intended for operation on highways are motor vehicles. Absence of a particular safety feature is relevant only when absence of that feature would prevent operation on highways.

■ 13. Section 85.1706 is amended by revising paragraph (b) to read as follows:

§ 85.1706 Pre-certification exemption.

* * * * *

(b) Any manufacturer that desires a pre-certification exemption and is in the business of importing, modifying or testing uncertified vehicles for resale under the provisions of 40 CFR 85.1501, *et seq.,* must send the request to the Designated Compliance Officer as specified in 40 CFR 1068.30. The Designated Compliance Officer may require such manufacturers to submit information regarding the general nature of the fleet activities, the number of vehicles involved, and a demonstration that adequate record-keeping procedures for control purposes will be employed.

§§ 85.1713 and 85.1714 [Removed]

■ 14. Remove §§ 85.1713 and 85.1714.

Subpart S—Recall Regulations

■ 15. Subpart S is revised to read as follows:

Subpart S—Recall Regulations

§ 85.1801 Recall regulations.

Recall regulations apply for motor vehicles and motor vehicle engines as specified in 40 CFR part 1068, subpart G.

Subpart T—Emission Defect Reporting Requirements

■ 16. Section 85.1901 is revised to read as follows:

§ 85.1901 Applicability.

(a) The requirements of this subpart shall be applicable to all 1972 and later model year motor vehicles and motor vehicle engines, except that the provisions of 40 CFR 1068.501 apply instead for heavy-duty motor vehicle engines certified under 40 CFR part 86, subpart A, and for heavy-duty motor vehicles certified under 40 CFR part 1037 starting January 1, 2018.

(b) The requirement to report emission-related defects affecting a given class or category of vehicles or engines shall remain applicable for five years from the end of the model year in which such vehicles or engines were manufactured.

■ 17. Section 85.1902 is revised to read as follows:

§ 85.1902 Definitions.

For the purposes of this subpart and unless otherwise noted:

(a) *Act* means the Clean Air Act, 42 U.S.C. 7401–7671q, as amended.

(b) *Emission-related defect* means:

(1) A defect in design, materials, or workmanship in a device, system, or assembly described in the approved Application for Certification that affects any parameter or specification enumerated in appendix VIII of this part; or

(2) A defect in the design, materials, or workmanship in one or more emission-related parts, components, systems, software or elements of design which must function properly to ensure continued compliance with emission standards.

(c) *Useful life* has the meaning given in section 202(d) of the Act (42 U.S.C. 7521(d)) and regulations promulgated thereunder.

(d) *Voluntary emissions recall* means a repair, adjustment, or modification program voluntarily initiated and conducted by a manufacturer to remedy any emission-related defect for which direct notification of vehicle or engine owners has been provided, including programs to remedy defects related to emissions standards for CO_2, CH_4, N_2O, and/or carbon-related exhaust emissions.

(e) U*ltimate purchaser* has the meaning given in section 216 of the Act (42 U.S.C. 7550).

(f) *Manufacturer* has the meaning given in section 216 of the Act (42 U.S.C. 7550).

PART 86—CONTROL OF EMISSIONS FROM NEW AND IN-USE HIGHWAY VEHICLES AND ENGINES

■ 18. The authority citation for part 86 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart A—General Provisions for Heavy-Duty Engines and Heavy-Duty Vehicles

■ 19. Revise the heading of subpart A to read as set forth above.

§ 86.001–35 [Removed]

■ 20. Remove § 86.001–35.

■ 21. Section 86.004–2 is amended by revising the definition of ''Emergency vehicle'' to read as follows:

§ 86.004–2 Definitions.

* * * * *

Emergency vehicle has the meaning given in 40 CFR 1037.801.

* * * * *

■ 22. Section 86.004–25 is amended by revising paragraph (b)(4)(i) to read as follows:

§ 86.004–25 Maintenance.

* * * * *

(b) * * *

(4) * * *

company will install the air conditioning system, also identify the corporate name of the final installer.

* * * * *

■ 64. Section 86.1846–01 is amended by revising paragraph (b)(1)(i) to read as follows:

§ 86.1846–01 Manufacturer in-use confirmatory testing requirements.

* * * * *

(b) * * *

(1) * * *

(i) Additional testing is not required under this paragraph (b)(1) based on evaporative/refueling testing or based on low-mileage Supplemental FTP testing conducted under § 86.1845–04(b)(5)(i). Testing conducted at high altitude under the requirements of § 86.1845–04(c) will be included in determining if a test group meets the criteria triggering the testing required under this section.

* * * * *

■ 65. Section 86.1848–10 is amended by revising paragraph (c)(9) to read as follows:

§ 86.1848–10 Compliance with emission standards for the purpose of certification.

* * * * *

(c) * * *

(9) For 2012 and later model year LDVs, LDTs, and MDPVs, all certificates of conformity issued are conditional upon compliance with all provisions of §§ 86.1818 and 86.1865 both during and after model year production. Similarly, for 2014 and later model year HDV, and other HDV subject to standards under § 86.1819, all certificates of conformity issued are conditional upon compliance with all provisions of §§ 86.1819 and 86.1865 both during and after model year production. The manufacturer bears the burden of establishing to the satisfaction of the Administrator that the terms and conditions upon which the certificate(s) was (were) issued were satisfied. For recall and warranty purposes, vehicles not covered by a certificate of conformity will continue to be held to the standards stated or referenced in the certificate that otherwise would have applied to the vehicles.

(i) Failure to meet the fleet average CO_2 requirements will be considered a failure to satisfy the terms and conditions upon which the certificate(s) was (were) issued and the vehicles sold in violation of the fleet average CO_2 standard will not be covered by the certificate(s). The vehicles sold in violation will be determined according to § 86.1865–12(k)(8).

(ii) Failure to comply fully with the prohibition against selling credits that are not generated or that are not available, as specified in § 86.1865–12, will be considered a failure to satisfy the terms and conditions upon which the certificate(s) was (were) issued and the vehicles sold in violation of this prohibition will not be covered by the certificate(s).

(iii) For manufacturers using the conditional exemption under § 86.1801–12(k), failure to fully comply with the fleet production thresholds that determine eligibility for the exemption will be considered a failure to satisfy the terms and conditions upon which the certificate(s) was (were) issued and the vehicles sold in violation of the stated sales and/or production thresholds will not be covered by the certificate(s).

(iv) For manufacturers that are determined to be operationally independent under § 86.1838–01(d), failure to report a material change in their status within 60 days as required by § 86.1838–01(d)(2) will be considered a failure to satisfy the terms and conditions upon which the certificate(s) was (were) issued and the vehicles sold in violation of the operationally independent criteria will not be covered by the certificate(s).

(v) For manufacturers subject to an alternative fleet average greenhouse gas emission standard approved under § 86.1818–12(g), failure to comply with the annual sales thresholds that are required to maintain use of those standards, including the thresholds required for new entrants into the U.S. market, will be considered a failure to satisfy the terms and conditions upon which the certificate(s) was (were) issued and the vehicles sold in violation of stated sales and/or production thresholds will not be covered by the certificate(s).

* * * * *

■ 66. Section 86.1853–01 is revised to read as follows:

§ 86.1853–01 Certification hearings.

If a manufacturer's request for a hearing is approved, EPA will follow the hearing procedures specified in 40 CFR part 1068, subpart G.

■ 67. Section 86.1854–12 is amended by adding paragraph (b)(5) to read as follows:

§ 86.1854–12 Prohibited acts.

* * * * *

(b) * * *

(5) Certified motor vehicles and motor vehicle engines and their emission control devices must remain in their certified configuration even if they are used solely for competition or if they become nonroad vehicles or engines; anyone modifying a certified motor vehicle or motor vehicle engine for any reason is subject to the tampering and defeat device prohibitions of paragraph (a)(3) of this section and 42 U.S.C. 7522(a)(3).

■ 68. Section 86.1862–04 is amended by revising paragraph (d) to read as follows:

§ 86.1862–04 Maintenance of records and submittal of information relevant to compliance with fleet-average standards.

* * * * *

(d) *Notice of opportunity for hearing.* Any voiding of the certificate under paragraph (a)(6) of this section will be made only after EPA has offered the manufacturer concerned an opportunity for a hearing conducted in accordance with 40 CFR part 1068, subpart G and, if a manufacturer requests such a hearing, will be made only after an initial decision by the Presiding Officer.

■ 69. Section 86.1865–12 is revised to read as follows:

§ 86.1865–12 How to comply with the fleet average CO_2 standards.

(a) *Applicability.* (1) Unless otherwise exempted under the provisions of paragraph (d) of this section, CO_2 fleet average exhaust emission standards of this subpart apply to:

(i) 2012 and later model year passenger automobiles and light trucks.

(ii) Heavy-duty vehicles subject to standards under § 86.1819.

(iii) Vehicles imported by ICIs as defined in 40 CFR 85.1502.

(2) The terms ''passenger automobile'' and ''light truck'' as used in this section have the meanings given in § 86.1818–12.

(b) *Useful life requirements.* Full useful life requirements for CO_2 standards are defined in §§ 86.1818 and 86.1819. There is not an intermediate useful life standard for CO_2 emissions.

(c) *Altitude.* Greenhouse gas emission standards apply for testing at both low-altitude conditions and at high-altitude conditions, as described in §§ 86.1818 and 86.1819.

(d) *Small volume manufacturer certification procedures.* (1) *Passenger automobiles and light trucks.* Certification procedures for small volume manufacturers are provided in § 86.1838. Small businesses meeting certain criteria may be exempted from the greenhouse gas emission standards in § 86.1818 according to the provisions of § 86.1801–12(j) or (k).

(2) *Heavy-duty vehicles.* HDV manufacturers that qualify as small businesses are not subject to the Phase 1 greenhouse gas standards of this subpart as specified in § 86.1819–14(k)(5).

Subpart G—Special Compliance Provisions

§ 1036.601 What compliance provisions apply?

(a) Engine and vehicle manufacturers, as well as owners, operators, and rebuilders of engines subject to the requirements of this part, and all other persons, must observe the provisions of this part, the provisions of 40 CFR part 1068, and the provisions of the Clean Air Act. The provisions of 40 CFR part 1068 apply for heavy-duty highway engines as specified in that part, subject to the following provisions:

(1) The hardship exemption provisions of 40 CFR 1068.245, 1068.250, and 1068.255 do not apply for motor vehicle engines.

(2) The provisions of 40 CFR 1068.235 that allow for modifying certified engines for competition do not apply for heavy-duty vehicles or heavy-duty engines. Certified motor vehicles and motor vehicle engines and their emission control devices must remain in their certified configuration even if they are used solely for competition or if they become nonroad vehicles or engines; anyone modifying a certified motor vehicle or motor vehicle engine for any reason is subject to the tampering and defeat device prohibitions of 40 CFR 1068.101(b) and 42 U.S.C. 7522(a)(3). Note that a new engine that will be installed in a vehicle that will be used solely for competition may be excluded from the requirements of this part based on a determination that the vehicle is not a motor vehicle under 40 CFR 85.1703.

(3) The tampering prohibition in 40 CFR 1068.101(b)(1) applies for alternative fuel conversions as specified in 40 CFR part 85, subpart F.

(4) The warranty-related prohibitions in section 203(a)(4) of the Act (42 U.S.C. 7522(a)(4)) apply to manufacturers of new heavy-duty highway engines in addition to the prohibitions described in 40 CFR 1068.101(b)(6). We may assess a civil penalty up to $37,500 for each engine or vehicle in violation.

(b) Engines exempted from the applicable standards of 40 CFR part 86 are exempt from the standards of this part without request.

(c) The emergency vehicle field modification provisions of 40 CFR 85.1716 apply with respect to the standards of this part.

(d) Subpart C of this part describes how to test and certify dual-fuel and flexible-fuel engines. Some multi-fuel engines may not fit either of those defined terms. For such engines, we will determine whether it is most appropriate to treat them as single-fuel engines, dual-fuel engines, or flexible-fuel engines based on the range of possible and expected fuel mixtures. For example, an engine might burn natural gas but initiate combustion with a pilot injection of diesel fuel. If the engine is designed to operate with a single fueling algorithm (*i.e.,* fueling rates are fixed at a given engine speed and load condition), we would generally treat it as a single-fuel engine. In this context, the combination of diesel fuel and natural gas would be its own fuel type. If the engine is designed to also operate on diesel fuel alone, we would generally treat it as a dual-fueled engine. If the engine is designed to operate on varying mixtures of the two fuels, we would generally treat it as a flexible-fueled engine. To the extent that requirements vary for the different fuels or fuel mixtures, we may apply the more stringent requirements.

§ 1036.610 Off-cycle technology credits and adjustments for reducing greenhouse gas emissions.

(a) You may ask us to apply the provisions of this section for CO_2 emission reductions resulting from powertrain technologies that were not in common use with heavy-duty vehicles before model year 2010 that are not reflected in the specified test procedure. We will apply these provisions only for technologies that will result in a measurable, demonstrable, and verifiable real-world CO_2 reduction. Note that prior to MY 2016, these technologies were referred to as ''innovative technologies''.

(b) The provisions of this section may be applied as either an improvement factor (used to adjust emission results) or as a separate credit within the engine family, consistent with good engineering judgment. Note that the term ''credit'' in this section describes an additive adjustment to emission rates and is not equivalent to an emission credit in the ABT program of subpart H of this part. We recommend that you base your credit/adjustment on A to B testing of pairs of engines/vehicles differing only with respect to the technology in question.

(1) Calculate improvement factors as the ratio of in-use emissions with the technology divided by the in-use emissions without the technology. Adjust the emission results by multiplying by the improvement factor. Use the improvement-factor approach where good engineering judgment indicates that the actual benefit will be proportional to emissions measured over the test procedures specified in this part. For example, the benefits from technologies that reduce engine operation would generally be proportional to the engine's emission rate.

(2) Calculate separate credits based on the difference between the in-use emission rate (g/ton-mile) with the technology and the in-use emission rate without the technology. Subtract this value from your measured emission result and use this adjusted value to determine your FEL. We may also allow you to calculate the credits based on g/hp-hr emission rates. Use the separate-credit approach where good engineering judgment indicates that the actual benefit will not be proportional to emissions measured over the test procedures specified in this part.

(3) We may require you to discount or otherwise adjust your improvement factor or credit to account for uncertainty or other relevant factors.

(c) Send your request to the Designated Compliance Officer. We recommend that you do not begin collecting test data (for submission to EPA) before contacting us. For technologies for which the vehicle manufacturer could also claim credits (such as transmissions in certain circumstances), we may require you to include a letter from the vehicle manufacturer stating that it will not seek credits for the same technology. Your request must contain the following items:

(1) A detailed description of the off-cycle technology and how it functions to reduce CO_2 emissions under conditions not represented on the duty cycles required for certification.

(2) A list of the engine configurations that will be equipped with the technology.

(3) A detailed description and justification of the selected test engines.

(4) All testing and simulation data required under this section, plus any other data you have considered in your analysis. You may ask for our preliminary approval of your test plan under § 1036.210.

(5) A complete description of the methodology used to estimate the off-cycle benefit of the technology and all supporting data, including engine testing and in-use activity data. Also include a statement regarding your recommendation for applying the provisions of this section for the given technology as an improvement factor or a credit.

(6) An estimate of the off-cycle benefit by engine model, and the fleetwide benefit based on projected sales of engine models equipped with the technology.

(7) A demonstration of the in-use durability of the off-cycle technology,

matrix while holding wheel speed constant. Repeat the stabilization and measurement sequence at the same wheel speed from highest to lowest torque. This results in two measurements at each torque setting. Perform the stabilization and measurement sequence again in a sequence from low to high torque values, then from high to low torque values, all at the same wheel speed, resulting in four measurements at each torque setting. Calculate an arithmetic average value for input torque, output torque, and wheel speed at each torque setting.

(5) Decrease wheel speed to the next lower speed setting and repeat the torque sweep described in paragraph (d)(4) of this section to determine input torque, output torque, and wheel speed results for all the torque settings at the new wheel speed. Repeat this process in order of decreasing wheel speed until the mapping is complete for all points in the test matrix. If the test is aborted before completing the map, invalidate all the measurements made at that wheel speed. Once the problem has been resolved, warm up the axle as described in paragraph (d)(3) of this section and continue with measurements from the wheel speed where you stopped testing.

(e) Calculate the torque loss, T_{loss}, at each point from the test matrix using the following equation:

$$T_{loss} = T_{in} \cdot k_a - T_{out} \qquad \text{Eq. 1037.560-1}$$

Where:
T_{in} = input torque.
k_a = drive axle ratio, expressed to at least the nearest 0.001.
T_{out} = the output torque.
Example:
T_{in} = 1000.0 N·m
k_a = 3.731
T_{out} = 3695.1 N·m
T_{loss} = 1000.0 · 3.731 − 3695.1 = 35.9 N·m

Subpart G—Special Compliance Provisions

§ 1037.601 General compliance provisions.

(a) Engine and vehicle manufacturers, as well as owners and operators of vehicles subject to the requirements of this part, and all other persons, must observe the provisions of this part, the provisions of 40 CFR part 1068, and the provisions of the Clean Air Act. The provisions of 40 CFR part 1068 apply for heavy-duty vehicles as specified in that part, subject to the following provisions:

(1) Except as specifically allowed by this part or 40 CFR part 1068, it is a violation of § 1068.101(a)(1) to introduce into U.S. commerce a tractor or vocational vehicle containing an engine not certified to the requirements of this part and 40 CFR part 86 corresponding to the calendar year for date of manufacture of the tractor or vocational vehicle. Similarly, it is a violation to introduce into U.S. commerce a Phase 1 tractor containing an engine not certified for use in tractors; or to introduce into U.S. commerce a vocational vehicle containing a light heavy-duty or medium heavy-duty engine not certified for use in vocational vehicles. These prohibitions apply especially to the vehicle manufacturer. Note that this paragraph (a)(1) allows the use of Class 8 tractor engines in vocational vehicles.

(2) The provisions of 40 CFR 1068.105(a) apply for vehicle manufacturers installing engines certified under 40 CFR part 1036 as further limited by this paragraph (a)(2). If new engine emission standards apply in a given model year, you may install engines built before the date of the new or changed standards under the provisions of 40 CFR 1068.105(a) through March 31 of that year without our approval; you may not install such engines after March 31 of that year unless we approve it in advance. Installing such engines after March 31 without our prior approval is considered to be prohibited stockpiling of engines. In a written request for our approval, you must describe how your circumstances led you and your engine supplier to have normal inventories of engines that were not used up in the specified time frame. We will approve your request for up to three additional months to install up to 50 engines under this paragraph (a)(2) if we determine that the excess inventory is a result of unforeseeable circumstances and should not be considered circumvention of emission standards.

(3) The provisions of 40 CFR 1068.235 that allow for modifying certified vehicles and engines for competition do not apply for heavy-duty vehicles or heavy-duty engines. Certified motor vehicles and motor vehicle engines and their emission control devices must remain in their certified configuration even if they are used solely for competition or if they become nonroad vehicles or engines; anyone modifying a certified motor vehicle or motor vehicle engine for any reason is subject to the tampering and defeat device prohibitions of 40 CFR 1068.101(b) and 42 U.S.C. 7522(a)(3). Note that a new vehicle that will be used solely for competition may be excluded from the requirements of this part based on a determination that the vehicle is not a motor vehicle under 40 CFR 85.1703.

(4) The tampering prohibition in 40 CFR 1068.101(b)(1) applies for alternative fuel conversions as specified in 40 CFR part 85, subpart F.

(5) The warranty-related prohibitions in section 203(a)(4) of the Act (42 U.S.C. 7522(a)(4)) apply to manufacturers of new heavy-duty highway vehicles in addition to the prohibitions described in 40 CFR 1068.101(b)(6). We may assess a civil penalty up to $37,500 for each engine or vehicle in violation.

(6) The hardship exemption provisions of 40 CFR 1068.245, 1068.250, and 1068.255 do not apply for heavy-duty vehicles.

(7) A vehicle manufacturer that completes assembly of a vehicle at two or more facilities may ask to use as the date of manufacture for that vehicle the date on which manufacturing is completed at the place of main assembly, consistent with provisions of 49 CFR 567.4. Note that such staged assembly is subject to the corresponding provisions of 40 CFR 1068.260. Include your request in your application for certification, along with a summary of your staged-assembly process. You may ask to apply this allowance to some or all of the vehicles in your vehicle family. Our approval is effective when we grant your certificate. We will not approve your request if we determine that you intend to use this allowance to circumvent the intent of this part.

(8) The provisions for selective enforcement audits apply as described in 40 CFR part 1068, subpart E, and § 1037.301.

(b) Vehicles exempted from the applicable standards of 40 CFR part 86 are exempt from the standards of this part without request. Similarly, vehicles are exempt without request if the installed engine is exempted from the applicable standards in 40 CFR part 86.

(c) The prohibitions of 40 CFR 1068.101 apply for vehicles subject to the requirements of this part. The actions prohibited under this provision include the introduction into U.S.

or deliver into commerce in the United States or import into the United States any new engine/equipment after emission standards take effect for the engine/equipment, unless it is covered by a valid certificate of conformity for its model year and has the required label or tag. You also may not take any of the actions listed in the previous sentence with respect to any equipment containing an engine subject to this part's provisions unless the engine is covered by a valid certificate of conformity for its model year and has the required engine label or tag. We may assess a civil penalty up to $37,500 for each engine or piece of equipment in violation.

(i) For purposes of this paragraph (a)(1), a valid certificate of conformity is one that applies for the same model year as the model year of the equipment (except as allowed by § 1068.105(a)), covers the appropriate category or subcategory of engines/equipment (such as locomotive or sterndrive/inboard Marine SI or nonhandheld Small SI), and conforms to all requirements specified for equipment in the standard-setting part. Engines/equipment are considered not covered by a certificate unless they are in a configuration described in the application for certification.

(ii) The prohibitions of this paragraph (a)(1) also apply for new engines you produce to replace an older engine in a piece of equipment, except that the engines may qualify for the replacement-engine exemption in § 1068.240.

(iii) The prohibitions of this paragraph (a)(1) also apply for new engines that will be installed in equipment subject to equipment-based standards, except that the engines may qualify for an exemption under § 1068.260(c) or § 1068.262.

(iv) Where the regulations specify that you are allowed to introduce engines/equipment into U.S. commerce without a certificate of conformity, you may take any of the otherwise prohibited actions specified in this paragraph (a)(1) with respect to those engines/equipment.

* * * * *

(b) The following prohibitions apply to everyone with respect to the engines and equipment to which this part applies:

(1) *Tampering.* You may not remove or render inoperative any device or element of design installed on or in engines/equipment in compliance with the regulations prior to its sale and delivery to the ultimate purchaser. You also may not knowingly remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser. This includes, for example, operating an engine without a supply of appropriate quality urea if the emission control system relies on urea to reduce NO_X emissions or the use of incorrect fuel or engine oil that renders the emissions control system inoperative. Section 1068.120 describes how this applies to rebuilding engines. See the standard-setting part, which may include additional provisions regarding actions prohibited by this requirement. For a manufacturer or dealer, we may assess a civil penalty up to $37,500 for each engine or piece of equipment in violation. For anyone else, we may assess a civil penalty up to $3,750 for each engine or piece of equipment in violation. This prohibition does not apply in any of the following situations:

(i) You need to repair the engine/equipment and you restore it to proper functioning when the repair is complete.

(ii) You need to modify the engine/equipment to respond to a temporary emergency and you restore it to proper functioning as soon as possible.

(iii) You modify new engines/equipment that another manufacturer has already certified to meet emission standards and recertify them under your own family. In this case you must tell the original manufacturer not to include the modified engines/equipment in the original family.

(2) *Defeat devices.* You may not knowingly manufacture, sell, offer to sell, or install, any component that bypasses, impairs, defeats, or disables the control of emissions of any regulated pollutant, except as explicitly allowed by the standard-setting part. We may assess a civil penalty up to $3,750 for each component in violation.

(3) *Stationary engines.* For an engine that is excluded from any requirements of this chapter because it is a stationary engine, you may not move it or install it in any mobile equipment except as allowed by the provisions of this chapter. You may not circumvent or attempt to circumvent the residence-time requirements of paragraph (2)(iii) of the nonroad engine definition in § 1068.30. Anyone violating this paragraph (b)(3) is deemed to be a manufacturer in violation of paragraph (a)(1) of this section. We may assess a civil penalty up to $37,500 for each engine or piece of equipment in violation.

(4) *Competition engines/equipment.* (i) For uncertified engines/equipment that are excluded or exempted as new engines/equipment from any requirements of this chapter because they are to be used solely for competition, you may not use any of them in a manner that is inconsistent with use solely for competition. Anyone violating this paragraph (b)(4)(i) is deemed to be a manufacturer in violation of paragraph (a)(1) of this section. We may assess a civil penalty up to $37,500 for each engine or piece of equipment in violation.

(ii) For certified nonroad engines/equipment that qualify for exemption from the tampering prohibition as described in § 1068.235 because they are to be used solely for competition, you may not use any of them in a manner that is inconsistent with use solely for competition. Anyone violating this paragraph (b)(4)(ii) is in violation of paragraph (b)(1) or (2) of this section. Certified motor vehicles and motor vehicle engines and their emission control devices must remain in their certified configuration even if they are used solely for competition or if they become nonroad vehicles or engines; anyone modifying a certified motor vehicle or motor vehicle engine for any reason is subject to the tampering and defeat device prohibitions of 40 CFR 1068.101(b) and 42 U.S.C. 7522(a)(3).

(5) *Importation.* You may not import an uncertified engine or piece of equipment if it is defined to be new in the standard-setting part with a model year for which emission standards applied. Anyone violating this paragraph (b)(5) is deemed to be a manufacturer in violation of paragraph (a)(1) of this section. We may assess a civil penalty up to $37,500 for each engine or piece of equipment in violation. Note the following:

(i) The definition of new is broad for imported engines/equipment; uncertified engines and equipment (including used engines and equipment) are generally considered to be new when imported.

(ii) Used engines/equipment that were originally manufactured before applicable EPA standards were in effect are generally not subject to emission standards.

(6) *Warranty, recall, and maintenance instructions.* You must meet your obligation to honor your emission-related warranty under § 1068.115, including any commitments you identify in your application for certification. You must also fulfill all applicable requirements under subpart F of this part related to emission-related defects and recalls. You must also provide emission-related installation and maintenance instructions as described in the standard-setting part. Failure to meet these obligations is prohibited. Also, except as specifically

provisions prospectively to used engines to cover circumstances not otherwise allowed by the original certification or exemption. Note that application of new exemption provisions does not apply with respect to actions that occur before the new exemption applies. For example, you may ask for a testing exemption for a new or used engine that has already been introduced into commerce under a competition exemption, but the testing exemption would not cover non-competition use that occurred before we approved the testing exemption.

■ 244. Section 1068.210 is amended by revising the section heading and paragraph (e) to read as follows:

§ 1068.210 Exempting test engines/equipment.

* * * * *

(e) If we approve your request for a testing exemption, we will send you a letter or a memorandum describing the basis and scope of the exemption. It will also include any necessary terms and conditions, which normally require you to do the following:

(1) Stay within the scope of the exemption.

(2) Create and maintain adequate records that we may inspect.

(3) Add a permanent label to all engines/equipment exempted under this section, consistent with § 1068.45, with at least the following items:

(i) The label heading ''EMISSION CONTROL INFORMATION''.

(ii) Your corporate name and trademark.

(iii) Engine displacement, family identification, and model year of the engine/equipment (as applicable), or whom to contact for further information.

(iv) The statement: ''THIS [engine, equipment, vehicle, etc.] IS EXEMPT UNDER 40 CFR 1068.210 OR 1068.215 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.''

(4) Tell us when the test program is finished.

(5) Tell us the final disposition of the engines/equipment.

■ 245. Section 1068.215 is amended by revising the section heading and paragraphs (a) and (c)(3)(iv) to read as follows:

§ 1068.215 Exempting manufacturer-owned engines/equipment.

(a) You are eligible for this exemption for manufacturer-owned engines/equipment only if you are a certificate holder. Any engine for which you meet all applicable requirements under this section is exempt without request.

* * * * *

(c) * * *

(3) * * *

(iv) The statement: ''THIS [engine, equipment, vehicle, etc.] IS EXEMPT UNDER 40 CFR 1068.210 OR 1068.215 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.''

■ 246. Section 1068.220 is revised to read as follows:

§ 1068.220 Exempting display engines/equipment.

(a) Anyone may request an exemption for display engines/equipment.

(b) Nonconforming display engines/equipment will be exempted if they are used only for displays in the interest of a business or the general public. This exemption does not apply to engines/equipment displayed for private use, private collections, or any other purpose we determine is inappropriate for a display exemption.

(c) You may operate the exempted engine/equipment, but only if we approve specific operation that is part of the display, or is necessary for the display (possibly including operation that is indirectly necessary for the display). We may consider any relevant factor in our approval process, including the extent of the operation, the overall emission impact, and whether the engine/equipment meets emission requirements of another country.

(d) You may sell or lease the exempted engine/equipment only with our advance approval.

(e) To use this exemption, you must add a permanent label to all engines/equipment exempted under this section, consistent with § 1068.45, with at least the following items:

(1) The label heading ''EMISSION CONTROL INFORMATION''.

(2) Your corporate name and trademark.

(3) Engine displacement, family identification, and model year of the engine/equipment (as applicable), or whom to contact for further information.

(4) The statement: ''THIS [engine, equipment, vehicle, etc.] IS EXEMPT UNDER 40 CFR 1068.220 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.''

(f) We may set other conditions for approval of this exemption.

■ 247. Section 1068.225 is amended by revising the section heading and paragraph (d)(4) to read as follows:

§ 1068.225 Exempting engines/equipment for national security.

* * * * *

(d) * * *

(4) The statement: ''THIS [engine, equipment, vehicle, etc.] HAS AN EXEMPTION FOR NATIONAL SECURITY UNDER 40 CFR 1068.225.''

■ 248. Section 1068.230 is amended by revising the section heading and paragraphs (b) and (c) to read as follows:

§ 1068.230 Exempting engines/equipment for export.

* * * * *

(b) Engines/equipment exported to a country not covered by paragraph (a) of this section are exempt from the prohibited acts in this part without a request. If you produce exempt engines/equipment for export and any of them are sold or offered for sale to an ultimate purchaser in the United States, the exemption is automatically void for those engines/equipment, except as specified in § 1068.201(i). You may operate engines/equipment in the United States only as needed to prepare and deliver them for export.

(c) Except as specified in paragraph (d) of this section, label exempted engines/equipment (including shipping containers if the label on the engine/equipment will be obscured by the container) with a label showing that they are not certified for sale or use in the United States. This label may be permanent or removable. See § 1068.45 for provisions related to the use of removable labels and applying labels to containers without labeling individual engines/equipment. The label must include your corporate name and trademark and the following statement: ''THIS [engine, equipment, vehicle, etc.] IS SOLELY FOR EXPORT AND IS THEREFORE EXEMPT UNDER 40 CFR 1068.230 FROM U.S. EMISSION STANDARDS AND RELATED REQUIREMENTS.''

* * * * *

■ 249. Section 1068.235 is revised to read as follows:

§ 1068.235 Exempting nonroad engines/equipment used solely for competition.

The following provisions apply for nonroad engines/equipment, but not for motor vehicles:

(a) New nonroad engines/equipment you produce that are used solely for competition are excluded from emission standards. We may exempt (rather than exclude) new nonroad engines/equipment you produce that you intend to be used solely for competition, where we determine that such engines/equipment are unlikely to be used contrary to your intent. See the standard-setting parts for specific provisions where applicable. Note that the definitions in the standard-setting part may deem uncertified engines/equipment to be new upon importation.

(b) If you modify any nonroad engines/equipment after they have been placed into service in the United States